## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )				
	Plaintiff,	) 8:11CR362 )		
	vs.	) DETENTION ORDER		
JO	SE CARLOS MONTES-AGOSTA,			
	Defendant.	}		
A.	Order For Detention  After waiving a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act on October 28, 2011, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).			
В.	The Court orders the defendant's detentio  X By a preponderance of the evid- conditions will reasonably assure the X By clear and convincing evidence that	on n because it finds: ence that no condition or combination of e appearance of the defendant as required. at no condition or combination of conditions any other person or the community.		
C.	The Court's findings are based on the evicontained in the Pretrial Services Report, a  X (1) Nature and circumstances of th  X (a) The crime: a conspirate distribute methamphetal 846 and the possession (Count II) in violation of 2 sentence of ten years imprisonment.  (b) The offense is a crime of (c) The offense involves a result of the possession in the context of the possession in the possession in the context of the possession in the possession i	and includes the following: le offense charged: y to distribute and possess with intent to mine (Count I) in violation of 21 U.S.C. § with intent to distribute methamphetamine 1 U.S.C. § 841(a)(1) each carry a minimum imprisonment and a maximum of life f violence.		
	may affect whet  X The defendant I  X The defendant I  X The defendant I  X The defendant is  X The defendant ities.  Past conduct of The defendant I  The defendant I  The defendant I	appears to have a mental condition which her the defendant will appear. has no family ties in the area. has no steady employment. has no substantial financial resources. It is not a long time resident of the community. However, the defendant: has a history relating to drug abuse. Has a history relating to alcohol abuse. Has a significant prior criminal record. Has a prior record of failure to appear at		

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	(b) A		of the current arrest, the defendant was on:
	<del>-</del>		bation
	_	Par	ease pending trial, sentence, appeal or completion of
	_		tence.
	(c) (	Other Factor	
	(0)		e defendant is an illegal alien and is subject to
	<del>-</del>		ortation.
	_		e defendant is a legal alien and will be subject to
			ortation if convicted.
	_		Bureau of Immigration and Custom Enforcement
			CE) has placed a detainer with the U.S. Marshal.
	<del>-</del>	Oth	er:
Χ	(1) The na	ature and s	seriousness of the danger posed by the defendant's
			ws: The nature of the charges in the Indictment.
	1010400	are ae rene	We. The hatare of the onargee in the majorners.
Χ	(5) Rebutta	able Presui	mptions
			the defendant should be detained, the Court also relied
on the following rebuttable presumption(s) contained in 18 U.S.C. §			ebuttable presumption(s) contained in 18 U.S.C. §
3142(e) which the Court finds the defendant has not rebutted:			
X (a) That no condition or combination of conditions will reasonable			
			ppearance of the defendant as required and the safety
			person and the community because the Court finds that
	u	he crime inv	A crime of violence; or
	_		An offense for which the maximum penalty is life
	_	<u> </u>	imprisonment or death; or
		X (3)	A controlled substance violation which has a maximum
	_		penalty of 10 years or more; or
	_	(4)	A felony after the defendant had been convicted of two
	_		or more prior offenses described in (1) through (3)
			above, and the defendant has a prior conviction for
			one of the crimes mentioned in (1) through (3) above
			which is less than five years old and which was
	V /b) T	That no ac	committed while the defendant was on pretrial release.
X (b) That no condition or combination of conditions will reasonable assure the appearance of the defendant as required and the of the community because the Court finds that there is procause to believe:			
			That the defendant has committed a controlled
	_	(1)	substance violation which has a maximum penalty of
			10 years or more.
	_	(2)	That the defendant has committed an offense under 18
			U.S.C. § 924(c) (uses or carries a firearm during and
			in relation to any crime of violence, including a crime of
			violence, which provides for an enhanced punishment
			if committed by the use of a deadly or dangerous
			weapon or device).

D. Additional Directives
 Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:
 1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable,

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from persons awaiting or serving sentences or being held in custody pending appeal;

- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: October 28, 2011. BY THE COURT:

s/Thomas D. Thalken

United States Magistrate Judge